

Form 305—General Information
(Application for Certificate of Authority—Foreign Professional Limited Liability Company)

The attached form is a standardized form designed to meet minimal statutory filing requirements pursuant to the relevant statutory provisions. *This form and the information provided are not substitutes for the advice and services of an attorney and tax specialist.*

Commentary: A foreign or out-of-state professional limited liability company that is transacting business in Texas is required to file an application for certificate of authority with the Secretary of State. The secretary of state does not provide legal opinions as to whether, given a particular set of circumstances, a foreign entity is or will be transacting business in the state and is required to obtain a certificate of authority. Transacting business is not specifically defined by the applicable statutes, but does not include an isolated transaction completed in 30 days or less, doing business in interstate commerce, or merely maintaining a bank account in this state. Generally, a foreign entity is transacting business in Texas if it has an office or an employee carrying on its business in this state or is otherwise pursuing one of its purposes in this state. It is recommended that you seek the advice of an attorney if you are uncertain whether the activities of the company require qualification with the secretary of state.

Qualification of Other Professional Entities as Foreign Professional Limited Liability Companies: Article 1.02A(9), Texas Limited Liability Company Act [TLLCA, article 1528n], defines the term “foreign limited liability company” broadly thereby permitting an entity not characterized as a limited liability company under the laws governing its formation to elect to file an application for certificate of authority. This permits other entities such as foreign or out-of-state professional corporations and associations that are unable to qualify under the provisions of the Texas Professional Corporation Act and Texas Professional Association Act to achieve the protections afforded by the TLLCA. In order to be considered as a “foreign limited liability company”, the entity must be formed under laws that provide that some or all of the persons entitled to receive a distribution of the assets upon the entity’s dissolution or otherwise or to exercise voting rights with respect to an interest in the entity shall not be liable for liabilities of the entity. Additionally, the entity must not be eligible to become authorized to do business in Texas under any other statute. Please note that an entity electing to qualify as a “foreign limited liability company” may be treated as a limited liability company for state tax purposes. FOREIGN LIMITED LIABILITY COMPANIES THAT ARE NOT LIMITED LIABILITY COMPANIES SHOULD ALSO COMPLETE ITEM 3 OF THE APPLICATION.

• **Item 1—Legal Name :** Provide the full legal name of the professional limited liability company as stated in the company’s formation document. As required by article 11.02 of the TLLCA, the legal name of the company may not be contrary to the law or ethics regulating the practice of the professional service rendered through the professional limited liability company. In addition, article 7.03 of the TLLCA and the secretary of state’s name availability rules provide that a limited liability company name cannot be the same as, or deceptively similar to, the name of any domestic or foreign corporation, limited partnership, limited liability company, or any name reservation or registration filed with the secretary of state. Therefore, the company’s name will be checked for availability upon submission of the application. If the name of the entity is the same as or deceptively similar to, or similar to the name of an existing corporation, limited partnership, or limited liability company, name reservation or name registration the document cannot be filed. The administrative rules adopted for determining entity name availability (Texas Administrative Code, Title 1, Part 4, Chapter 79, Subchapter C) may be viewed at the secretary of state web site at www.sos.state.tx.us/tac/index.html. If you wish the secretary of state to provide a preliminary determination on “name availability,” you may call (512) 463-5555 or e-mail your name inquiry to corpinfo@sos.state.tx.us. **A final determination cannot be made until the document is received and processed by the secretary of state.**

- **Item 2—Fictitious Name—Option 2A:** The name of the foreign professional limited liability company must contain one of the words “Professional Limited Liability Company,” or the abbreviations “P.L.L.C.” or “PLLC.” If the legal name of the professional limited liability company does not contain one of these terms of organization, the company must complete item 2A of the application by stating the legal name of the professional limited liability company with one of the words of organization added for purposes of qualification and transaction of business in Texas.

Fictitious Name—Option 2B: If it has been determined that the limited liability company legal name is not available for its use in Texas due to a conflict with a previously existing name, the company must obtain its certificate of authority to transact business under an assumed name. State the assumed or fictitious name that the company elects to adopt for use in Texas in item 2B of the application.

Fictitious Name Filing Requirements: If a fictitious name was required for qualification, the limited liability company also is required to file an assumed name certificate in compliance with Chapter 36 of the Texas Business & Commerce Code. The assumed name certificate is required to be filed with the secretary of state and with the county clerk in the county in which the registered office address is located and in the county in which the principal office address is located. The promulgated form for filing the assumed name with the secretary of state is **Form 503**. This form is not acceptable for filing with the county clerk.

- **Item 3—Notice of Non-LLC Status:** An entity that is not characterized as a limited liability company in its jurisdiction of formation, but which is electing to qualify with the secretary of state as provided by article 1.02A(9) of the TLLCA, need not add one of the terms of organization noted above. For example, an Oklahoma professional corporation, ABC Dental Care, P.C., would not be required to qualify as ABC Dental Care, P.C., PLLC. Please check the appropriate statement following item 2A to avoid rejection of the document.

- **Item 4—Federal Employer Identification Number:** Enter the company’s federal employer identification number (FEIN) in the space provided. The FEIN is a 9-digit number (e.g., 12-3456789) that is issued by the Internal Revenue Service (IRS). If the company has not received its FEIN at the time of submission, you may note this on the application form.

- **Items 5 and 6—Jurisdictional Information:** Provide the name of the state or foreign country of the limited liability company’s jurisdiction of formation, the date of its organization, and its period of duration. If the period of duration of the limited liability company in its jurisdiction of formation is limited to a term of years or to a date certain, then you must state the term of years or other duration.

- **Item 7—Principal Office Address:** Provide the limited liability company’s principal office address in the jurisdiction of formation. If the company is incorporated in Delaware, for example, the address shown must be in Delaware, even though the limited liability company’s principal place of business may be located elsewhere. If the company does not maintain an office in the state of formation, then provide the business office address of the registered agent maintained in the state/country of its formation.

- **Item 8—Registered Agent and Registered Office:** The registered agent can be either: a Texas corporation or other entity, such as a limited liability company, limited partnership, partnership, or other legal entity organized under the laws of this state, or a foreign corporation or other foreign entity authorized to transact business in this state; or an individual resident of the state. **The limited liability company cannot act as its own registered agent: do not enter the company name as the name of the registered agent.**

The registered office address must be an address that is generally open during normal business hours so that the registered agent may accept service of process. **A post office box is not sufficient as a registered office address unless the registered office is located in a town with a population of less than 5,000.**

- **Item 9—Purpose:** A foreign professional limited liability company may not state its purposes as "the transaction of all lawful business." The purpose of the professional limited liability company is limited to the rendition of a single professional service in Texas, unless specifically permitted otherwise by the provisions of the Part Eleven of the TLLCA. A foreign professional limited liability company may render its professional services in this state through a member, manager, officer, employee, or agent who is: (1) a professional individual licensed to render the professional service in Texas; or (2) a professional entity that renders the professional service in Texas only through partners, members, shareholders, managers, directors, associates, officers, employees, or agents who are professional individuals or professional entities licensed or otherwise authorized to render the professional service in Texas. In addition, item 8 contains a statement that the limited liability company is authorized in its jurisdiction of formation to pursue the purpose(s) stated in the application.
- **Items 10 and 11—Statement of Licensure and Reciprocity:** The foreign professional limited liability company may render its professional services in this state only through individuals licensed or otherwise authorized to perform the professional service in this state, or by professional entities that render the professional service only through individuals licensed or otherwise authorized to render the professional service in this state. Item 10 of this form contains a statement of licensure. In addition, item 11 of the application contains the statement of reciprocity required by article 11.07B.
- **Item 12—Management Information:** If the limited liability company has managers that govern the management of the limited liability company, then provide the name and address of each of its managers in item 12. If the company is not managed by managers but managed by its members, then provide the name and address of each of its managing members in item 12. If the space provided is not sufficient, you may include an attachment to the application form.
- **Item 13—Certification of Entity Status:** By signing the application for certificate of authority, the authorized manager/officer (or authorized member in a member-managed company) is certifying that the foreign limited liability company currently exists as a valid entity under the laws of the jurisdiction of its formation. Please note that the submission of a false or fraudulent document to the secretary of state is a Class A misdemeanor.
- **Effective Date:** Pursuant to Article 9.03 of the TLLCA, the effectiveness of the application for certificate of authority may be delayed as of a date not more than ninety (90) days from the date of filing with the secretary of state. Please note that upon the filing of a document with a delayed effective date, the computer records of the secretary of state will be changed to show the filing of the document, the date of the filing, and the future date on which the document will be effective. In addition, at the time of such filing, the status of the entity will be shown as active on the records of the secretary of state.
- **Execution:** An authorized manager/member of the limited liability company must sign the application for certificate of authority. If the authorized manager or member is a legal entity, then an authorized officer or other person authorized to sign on behalf of such legal entity should execute the application on behalf of the entity noting the capacity in which the person signs. For example, John Doe, President of XYZ, Inc., Manager of ABC, LLC. Prior to signing, please read the statements on this form carefully. A person commits an offense under the Texas Business Corporation Act, the Texas

Limited Liability Company Act or the Texas Non-Profit Corporation Act if the person signs a document the person knows is false in any material respect with the intent that the document be delivered to the secretary of state for filing. The offense is a Class A misdemeanor.

Payment and Delivery Instructions: Mail the completed form, together with the filing fee of \$500 to the address shown in the heading of the form. Personal checks and MasterCard, Visa, and Discover credit cards are accepted in payment of the filing fee. Checks or money orders must be payable through a U.S. bank or financial institution and made payable to the secretary of state. Fees paid by credit card are subject to a statutorily authorized convenience fee of 2.1% of the total fees.

The delivery address is James Earl Rudder Office Building, 1019 Brazos, Austin, Texas 78701. Upon filing the document, the secretary of state will return the appropriate evidence of filing and a file stamped copy of the document, if a duplicate copy was provided for such purpose, to the submitter. The telephone number is (512) 463-5555, TDD: (800) 735-2989, FAX: (512) 463-5709. If you transmit your document by fax, then you must provide your credit card information with the transmission (**Form 807**).

• **FOR YOUR INFORMATION: Franchise Taxes:** A limited liability company is subject to state franchise tax. Contact the Comptroller of Public Accounts, Tax Assistance Section, Austin, Texas, 78774-0100, (512) 463-4600 or (800) 252-1381 for franchise tax information. For information relating to federal employer identification numbers, federal income tax filing requirements, tax publications and forms call (800) 829-3676 or visit the Internal Revenue Service web site. The Corporations Section home page provides links to the IRS and Texas Comptroller web sites.

Form 305
(revised 9/03)

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**Application for
Certificate of Authority
Pursuant to Article 11.07
Texas Limited Liability
Company Act**

Return in Duplicate to:
Secretary of State
P.O. Box 13697
Austin, TX 78711-3697
FAX: 512/463-5709

Filing Fee: \$500

1. The name of the limited liability company is as set forth below:

The name must not be the same as, deceptively similar to or similar to that of an existing corporate, limited liability company, or limited partnership name on file with the secretary of state. A preliminary check for "name availability" is recommended.

2A. The legal name of the limited liability company does not contain the words "Professional Limited Liability Company," or the abbreviations "P.L.L.C." or "PLLC." The name of the company with the word or abbreviation that it elects to add for use in Texas is:

2B. The limited liability company name is not available in Texas. The assumed name under which the limited liability company will qualify and transact business in Texas is:

3. ☐ The entity electing to obtain this certificate of authority is not required to use an organizational ending indicating that it is a limited liability company since it is not characterized or formed as a limited liability company under the laws of the jurisdiction governing its formation.

4. Its federal employer identification number is: _____

☐ Federal employer identification number information is not available at this time.

5. It is organized under the laws of: (set forth state or foreign country) _____

6. The date of its organization is _____ and its period of duration is:

☐ perpetual **or** ☐ limited duration of a term of years set at: _____

7. The principal office address in the state or country of the company's jurisdiction of formation is:
(If the company does not maintain an office address in its jurisdiction of formation, then provide the registered office address of its registered agent in the jurisdiction of formation in the space provided below.)

Address	City	State/Country	Zip/Postal Code
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8. Its proposed registered agent in Texas is: (See instructions. Cannot be company named above.)

and the street address of its proposed registered office, which is the business office address of its proposed registered agent in Texas is: (A post office box address is not sufficient, please provide street address.)

9. The purpose or purposes of the limited liability company that it proposes to pursue in the transaction of business in Texas are set forth below. The company also certifies that it is authorized to pursue such stated purpose or purposes in the state or country under which it is organized.

10. Members, managers, officers, employees, or agents of the company who will render the professional service in Texas are licensed or authorized in Texas to perform the professional service set forth in item 9 of this application.

11. The jurisdiction in which the company is organized would permit reciprocal admission of the professional limited liability company if it were organized in Texas.

12. The name and address of each of its managers, or, if member-managed, the name and address of each of its managing members is:

NAME	ADDRESS (include city and state/country)

13. As of the date of filing, the undersigned certifies that the foreign limited liability company currently exists as a valid entity under the laws of the jurisdiction of its formation.

Effective Date of Filing

- | |
|--|
| <input type="checkbox"/> The document is to be effective when the document is filed by the secretary of state.
OR
<input type="checkbox"/> This document will become effective at a later date, which is not more than ninety (90) days from the date of its filing by the secretary of state. The delayed effective date is: |
|--|

Execution

The undersigned authorized manager or member of the limited liability company signs this document subject to the penalties imposed by law for the submission of a false or fraudulent document.

Signature of Authorized Manager/Memb er

Date